



U.S. Department of Justice

United States Attorney
Southern District of New York

86 Chambers Street
New York, New York 10007

April 27, 2020

BY ECF

Honorable Robert W. Lehrburger
United States Magistrate Judge
United States Courthouse
500 Pearl Street, Room 1960
New York, NY 10007

Re: *The New York Times Company v. U.S. Department of State et al.*, 19 Civ. 9420 (RWL)

Dear Judge Lehrburger:

This Office represents the Department of State (the “State Department”) and the Department of Justice (the “DOJ”) and, together with the State Department, the “Defendants”), in the above-captioned action. Pursuant to the Court’s March 25, 2020 Order, Dkt. No. 32, we write jointly with Plaintiff The New York Times Company (the “Plaintiff”) to provide a status update.

State Department: The State Department’s capacity to review and produce FOIA materials remains greatly reduced in light of the ongoing COVID-19 public health emergency. While the State Department is actively working to make it possible to perform some FOIA processing via telework, the requisite technical and administrative components necessary for this FOIA processing to proceed remotely are not yet in place. The potentially responsive records that have been collected by the State Department to date ultimately will be eligible for processing by State Department personnel working remotely. But even when those systems are operational, the State Department still will not have its full complement of FOIA processing staff available, and the State Department believes that the reduced number of staff and the likelihood of technological challenges will limit the State Department’s ability to process documents at the same rate as it would have under normal circumstances. The State Department hopes to have a clearer picture of its remote FOIA processing capacity by the time the parties are scheduled to submit their next status report on May 27, 2020, and respectfully requests that its production deadlines in this matter remain stayed. Plaintiff consents to the State Department’s request at this time.

DOJ: DOJ made its first production of responsive, non-exempt records to Plaintiff on April 14, 2020, and is currently scheduled to make its second production on May 14, 2020. During the course of preparing its first production, DOJ determined that its original collection of potentially responsive records included materials from outside the appropriate date range for the FOIA requests at issue. DOJ is re-running the relevant searches to get a more accurate count of the volume of potentially responsive materials to be processed; the revised volume will be smaller than the previously identified volume, but it is not yet clear by how much. DOJ will confer with Plaintiff when it has more information, and in particular to assess whether the revised search results

will impact the parties' agreement as to the records to be processed in connection with the May 14, 2020 deadline.

We thank the Court for its consideration of and attention to this matter.

Respectfully submitted,

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